IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 3154 of 2007(A)

AGAINST THE ORDER IN IA.3302/2006 IN
OP.312/2004 of D.C. & SESSIONS COURT,KOZHIKODE

.....

PETITIONER:

MRS.THANKAM, AGED 72 YEARS,
W/O.A.V.CHOYI, AYANIKKATTU VENGALAPURATH (PO)
PANTHEERANKAVU, KODAL AMSOM, KAILAMADAM DESOM,
KOZHIKODE.

BY ADV. SMT.PRABHA R.MENON
SRI.M.KRISHNAKUMAR

RESPONDENTS:

MRS.BASEENA, 34 YEARS,
W/O.P.SUNILKUMAR, `BHUVANA', KUDILATHODU,
CHEVAYUR AMSOM AND DESOM (PO), CHEVAYUR.

BY ADV. SRI.A.BALAGOPALAN
SMT.KALA G.NAMBIAR
SRI.K.SANEESH KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

WP(C).No. 3154 OF 2007 A

Dated this the 20th June, 2007.

JUDGMENT

This writ petition is filed seeking to set aside Ext.P2 order passed by the learned District Judge, Kozhikode. The learned District Judge found that examination of the mentally ill person by a medical expert is necessary and therefore referred him to a medical board to be constituted by the Superintendent of the Mental Health Centre, Kozhikode. It is against that decision the present writ petition is filed. Learned counsel for the writ petitioner submits that until and unless there are sufficient materials indicating that a person is mentally ill it may not be fair to refer him to a medical board for ascertaining whether he is a mentally ill person. It is true that a person shall not be subjected to harassment and a person shall not be degraded before others by simply referring him to a medical board to find out the mental condition of that person. Now medical evidence is sought to be produced and I feel this is a fit case where the District Judge may permit the parties to adduce medical evidence in support of their respective contentions and on satisfaction that the medical evidence is not sufficient then he may refer him to a medical board for examination,

instead of sending him straight away to the medical board to find out his mental stability or mental illness. Therefore, the order under challenge is set aside and the District Judge, Kozhikode is directed to permit parties to adduce medical evidence in support of their respective contentions and thereafter, if possible, take a decision on the medical evidence available or in case of necessity then refer him to a medical board for undergoing the test to find out whether he is a mentally ill person or not. The person is aged more than 80 years and it is only just and reasonable that the learned District Judge disposes of the matter within a time frame of two months from today. Writ petition is disposed of accordingly.

M.N. KRISHNAN
Judge

jj